

Remarks

Claims 1-41 are pending. Claim 37 is amended herein for clerical purposes. No new matter is added as a result of the Claim amendments.

Claim Objections

The present office action states that Claim 37 is objected to because of the following informalities: In Claim 37 line 1, the phrase “the computer-usable medium of Claim 32...” should be “the computer-usable medium of Claim 33...” Appropriate correction is required.

Applicants have amended the clerical error of Claim 37 herein. Therefore, Applicants respectfully submit that the Objection to Claim 37 is moot.

Double Patenting

The present office action states that Claims 1, 9 and 33 of the instant application (10/698,810) are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over some Claims of copending Application No. 10/698,812 (or US 2005/0015765 A1).

A terminal disclaimer in compliance with 37 CFR § 1.321(c) is being submitted concurrent with the instant response, thereby obviating the double patenting rejection of Claims 1, 9 and 33.

The present office action states that Claims 13, 29 and 38 of the instant application (10/698,810) are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over some Claims of copending Application No. 10/698,811 (or US 2004/0236874 A1).

A terminal disclaimer in compliance with 37 CFR § 1.321(c) is being submitted concurrent with the instant response, thereby obviating the double patenting rejection of Claims 13, 29 and 38.

Claim Rejections - 35 U.S.C. §102

Claims 1-7 and 33-36

The present Office Action rejected Claims 1-7 and 33-36 under 35 U.S.C. 102(e) as being anticipated by Menditto et al. (6,981,029), hereinafter referred to as "Menditto". Applicants have reviewed the above cited reference and respectfully submit that the embodiments of the present invention as recited in Claims 1-7 and 33-36 are not anticipated by Menditto for at least the following rationale.

Applicants respectfully submit that independent Claim 1 (and similarly Independent Claim 33) includes the features: "identifying a type of service to be performed on an item of content, wherein said item of content is identified during a session involving said client device"; and "selecting a provider from a plurality of providers capable of performing said service."

MPEP §2131 provides:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). ... "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

Applicants have reviewed Menditto and do not understand Menditto to anticipate identifying a type of service to be performed on an item of content and selecting a provider from a plurality of providers capable of performing the service.

In contrast, Applicants respectfully submit that Menditto teaches a system and method for processing a request for information in a network. As such, Applicants respectfully submit that Menditto anticipates managing routing content requests to increase network efficiency. Moreover, Applicants understand Menditto to anticipate providing a higher quality of service utilizing a subscription service, the higher quality of service including rules related to bandwidth allowances and limited queue and drop policies.

Thus, Applicants understand Menditto to anticipate quality of service adjustments, which are distinctly different than identifying a service to be performed on an item of content, or selecting a provider capable of performing the service on the item of content.

For this reason, Applicants respectfully submit that Menditto does not anticipate the features: “identifying a type of service to be performed on an item of content, wherein said item of content is identified during a session involving said client device”; and “selecting a provider from a plurality of providers capable of performing said service” as recited in independent Claims 1 and 33 (emphasis added).

Therefore, since Menditto fails to anticipate each and every element as recited in independent Claims 1 and 33, Applicants respectfully submit that Independent Claims 1 and 33 overcome the rejections under 35 U.S.C. §102(e), and are thus in condition for allowance.

Furthermore, Applicants respectfully submit that independent Claim 1 (and similarly Independent Claim 33) includes the feature: “providing information for transferring said session to said provider, wherein said provider performs said service on said item of content.”

Applicants have reviewed Menditto and do not understand Menditto to anticipate the provider performing the service on the item of content.

In contrast, as stated herein, Applicants respectfully submit that Menditto teaches a system and method for processing a request for information in a network. As such, Applicants respectfully submit that Menditto anticipates managing routing content requests to increase network efficiency. Moreover, Applicants understand Menditto to anticipate providing a higher quality of service utilizing a subscription service, the higher quality of service including rules related to bandwidth allowances and limited queue and drop policies.

Thus, Applicants understand Menditto to anticipate quality of service adjustments, which are distinctly different than the provider performing the service on the item of content.

For this reason, Applicants respectfully submit that Menditto does not anticipate the additional feature: “providing information for transferring said session to said provider, wherein said provider performs said service on said item of content” as recited in independent Claims 1 and 33 (emphasis added).

Therefore, since Menditto fails to anticipate each and every element as recited in independent Claims 1 and 33, Applicants respectfully submit that Independent Claims 1

and 33 overcome the rejections under 35 U.S.C. §102(e), and is thus in condition for allowance.

With respect to Claims 2-7 and 34-36, Applicants respectfully point out that Claims 2-7 and 34-36 depend from allowable independent Claims 1 and 33 and recite further embodiments of the present claimed invention. Therefore, Applicants respectfully submit that Claims 2-7 and 34-36 overcome the rejections under 35 U.S.C. §102(e), and that these claims are thus in a condition for allowance as being dependent on allowable base claims.

Claims 13-32

The present Office Action rejected Claims 13-32 under 35 U.S.C. 102(e) as being anticipated by Janik et al. (2002/0013852), hereinafter referred to as “Janik”. Applicants have reviewed the above cited reference and respectfully submit that the embodiments of the present invention as recited in Claims 13-32 are not anticipated by Janik for at least the following rationale.

Applicants respectfully submit that independent Claim 13 (and similarly Independent Claim 29) includes the features: “a service manager for receiving a request for an item of content from a portal, wherein said portal received said request from said client device, said service manager also for selecting a provider from a plurality of providers, each provider capable of performing a service on said item of content, wherein a session with said client device is redirected from said portal to said provider such that said session continues via said provider...”

As previously stated herein, MPEP §2131 provides:

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). ... **“The identical invention must be shown in as complete detail as is contained in the ... claim.”** *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). **The elements must be arranged as required by the claim.**

Applicants have reviewed Janik and do not understand Janik to anticipate a service manager for receiving a request for an item of content from a portal, wherein the portal received the request from the client device, the service manager also for selecting a

provider from a plurality of providers, each provider capable of performing a service on the item of content, wherein a session with the client device is redirected from the portal to the provider such that the session continues via the provider.

In contrast, Applicants respectfully submit that Janik teaches a system for providing content, management, and interactivity for thin client devices. As such, Applicants understand Janik to anticipate managing thin client devices via a user interface such as a personal computer.

Thus, Applicants understand Janik to anticipate management of thin client devices from a single client device, which are distinctly different.

For this reason, Applicants respectfully submit that Janik does not anticipate the features: “a service manager for receiving a request for an item of content from a portal, wherein said portal received said request from said client device, said service manager also for selecting a provider from a plurality of providers, each provider capable of performing a service on said item of content, wherein a session with said client device is redirected from said portal to said provider such that said session continues via said provider” as recited in independent Claims 13 and 29 (emphasis added).

Therefore, since Janik fails to anticipate each and every element as recited in independent Claims 13 and 29, Applicants respectfully submit that Independent Claims 13 and 29 overcome the rejections under 35 U.S.C. §102(e), and are thus in condition for allowance.

With respect to Claims 14-28 and 30-32, Applicants respectfully point out that Claims 14-28 and 30-32 depend from allowable independent Claims 13 and 29 and recite further embodiments of the present claimed invention. Therefore, Applicants respectfully submit that Claims 14-28 and 30-32 overcome the rejections under 35 U.S.C. §102(e), and that these claims are thus in a condition for allowance as being dependent on allowable base claims.

Claim Rejections - 35 U.S.C. §103

Claims 8-12 and 37-41

The present Office Action rejected Claims 8-12 and 37-41 under 35 U.S.C. 103(a) as being unpatentable over Menditto in view of Janik. Applicants have reviewed the above cited references and respectfully submit that the embodiments of the present

invention as recited in Claims 8-12 and 37-41 are patentable over Menditto, either taken alone or in combination with Janik.

Applicants respectfully point out that Claim 8 depends from allowable Independent Claim 1 and that Claim 37 depends from allowable Claim 32 and that Claims 8 and 37 recite further features of the present claimed invention. Therefore, Applicants respectfully submit that Claims 8 and 37 overcome the rejection under 35 U.S.C. §103(a), and as such, are in a condition for allowance as being dependent on allowable base claims.

Regarding Claims 9 and 38, Applicants respectfully submit that independent Claim 9 (similar to Independent Claim 38) includes the feature: “identifying a type of service to be performed on an item of content, wherein said item of content is identified during a session involving said client device; selecting a provider from a plurality of providers capable of performing said service; and providing information for transferring said session to said provider, wherein data for said item of content are streamed from a content source to said provider, wherein said provider performs said service on said item of content and wherein service result data are streamed from said provider to said client device.”

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). (MPEP 2143.03).

As provided herein, Applicants have reviewed Menditto and do not understand Menditto to teach or render obvious identifying a type of service to be performed on an item of content and selecting a provider from a plurality of providers capable of performing the service.

In contrast, Applicants respectfully submit that Menditto teaches a system and method for processing a request for information in a network. As such, Applicants respectfully submit that Menditto teach or render obvious managing routing content requests to increase network efficiency. Thus, Applicants understand Menditto to teach or render obvious quality of service adjustments, which are distinctly different than identifying a service to be performed on an item of content, or selecting a provider capable of performing the service on the item of content.

For this reason, Applicants respectfully submit that Menditto does not teach or render obvious the features: “identifying a type of service to be performed on an item of

content, wherein said item of content is identified during a session involving said client device”; and “selecting a provider from a plurality of providers capable of performing said service” as recited in independent Claims 9 and 38 (emphasis added).

Furthermore, as stated herein, Applicants respectfully submit that independent Claim 1 (and similarly Independent Claim 33) includes the feature: “providing information for transferring said session to said provider, wherein said provider performs said service on said item of content.”

Applicants have reviewed Menditto and do not understand Menditto to teach or render obvious the provider performing the service on the item of content. In contrast, as stated herein, Applicants respectfully submit that Menditto teaches a system and method for processing a request for information in a network. As such, Applicants respectfully submit that Menditto teach or render obvious managing routing content requests to increase network efficiency. Moreover, Applicants understand Menditto to teach or render obvious providing a higher quality of service utilizing a subscription service, the higher quality of service including rules related to bandwidth allowances and limited queue and drop policies.

Thus, Applicants understand Menditto to teach or render obvious quality of service adjustments, which are distinctly different than the provider performing the service on the item of content.

For this reason, Applicants respectfully submit that Menditto does not teach or render obvious the additional feature: “providing information for transferring said session to said provider, wherein said provider performs said service on said item of content” as recited in independent Claims 9 and 38 (emphasis added).

With respect to Janik, Applicants have reviewed Janik and do not understand Janik to teach or render obvious a service manager for receiving a request for an item of content from a portal, wherein the portal received the request from the client device, the service manager also for selecting a provider from a plurality of providers, each provider capable of performing a service on the item of content, wherein a session with the client device is redirected from the portal to the provider such that the session continues via the provider.

In contrast, Applicants respectfully submit that Janik teaches a system for providing content, management, and interactivity for thin client devices. As such, Applicants understand Janik to teach or render obvious managing thin client devices via a user interface such as a personal computer.

Thus, Applicants understand Janik to teach or render obvious management of thin client devices from a single client device, which are distinctly different.

For this reason, Applicants respectfully submit that Janik does not teach or render obvious the features: “a service manager for receiving a request for an item of content from a portal, wherein said portal received said request from said client device, said service manager also for selecting a provider from a plurality of providers, each provider capable of performing a service on said item of content, wherein a session with said client device is redirected from said portal to said provider such that said session continues via said provider” as recited in independent Claims 9 and 38 (emphasis added).

As such, Applicants respectfully submit that neither Menditto alone nor in combination with Janik teaches or renders obvious the features of Claims 9 and 38. As such, Applicants respectfully submit that Claims 9 and 38 overcome the rejection under 35 U.S.C. §103(a).

Moreover, it must be remembered that “*If the proposed **modification or combination** of the prior art **would change the principle of operation** of the prior art invention being modified, then **the teachings** of the reference **are not sufficient** to render the claims prima facie obvious.*” *In re Ratti* 270 F.2d 810, 123 USPQ 349 (CCPA 1959) (comment added).

As stated herein, Applicants do not understand Menditto to teach or render obvious identifying a type of service to be performed on an item of content; selecting a provider from a plurality of providers capable of performing the service; and the provider performing the service on the item of content as recited in independent Claims 9 and 38. As such, the modification of Menditto, to identifying and performing a service on an item of content; would change the method of operation of Menditto. In other words, Applicants understand Menditto to teach *directly away* from the claimed features.

Regarding Claims 10-12 and 39-41, in addition to being dependent upon Independent Claims 9 and 38 that have been demonstrated to be allowable over Menditto, Applicants respectfully assert that dependent Claims 10-12 and 39-41 provide additional

patentably distinct elements that are not obvious in light of Menditto and Janik (whether taken separately or in combination). Thus, Applicants respectfully submit that Claims 10-12 and 39-41 overcome the rejection under 35 U.S.C. §103(a), and that Claims 10-12 and 39-41 are in a condition for allowance.

CONCLUSION

In light of the above amendments and remarks, Applicants respectfully request allowance of Claims 1-41.


The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present application.

Applicants believe that no fees are currently due, however, should any fee be deemed necessary in connection with this Amendment and Response, the Commissioner is authorized to charge deposit account 08-2025, referencing the Attorney docket number 200313235-1.

Respectfully submitted,

WAGNER BLECHER LLP

Dated: 08/09/2007



John P. Wagner, Jr.
Registration No. 35,398

123 Westridge Dr.
Watsonville, Ca 95076
(408) 377-0500